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प्राधिकार से प्रकाशित
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सं. 30] नई दिल्ली, जुलाई 24—जुलाई 30, 2022, शनिवार/श्रावण 2—श्रावण 8, 1944
No. 30] NEW DELHI, JULY 24—JULY 30, 2022, SATURDAY/SRAVANA 2—SRAVANA 8, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 14 जुलाई, 2022

का.आ. 690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष एवं प्रबंध निदेशक, भारत संचार निगम लिमिटेड, भारत संचार भवन, हरीश चंद्र माथुर लेन, दिल्ली,; मुख्य महाप्रबंधक, भारत संचार निगम लिमिटेड, गुजरात टेलीकॉम सर्कल, नवरंगपुरा, अहमदाबाद (गुजरात); महाप्रबंधक (प्रशासन), ओ/ओ सीजीएमटी, गुजरात सर्कल, भारत संचार निगम लिमिटेड, गुजरात टेलीकॉम सर्कल, नवरंगपुरा, अहमदाबाद (गुजरात), महाप्रबंधक, दूरसंचार जिला, भारत संचार निगम लिमिटेड, **खेड्डा दूरसंचार जिला, नडियाद (गुजरात)**, के प्रबंधन के संबंध में नियोजकों और **जिला सचिव एवं अंचल अध्यक्ष, (गुजरात)** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 33/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 13.07.2022 को प्राप्त हुआ था।

[सं. एल-42011/211/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 14th July 2022

S.O. 690.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2019) of the Central Government Industrial Tribunal-cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman & Managing Director, Bharat Sanchar Nigam Limited, Bharat Sanchar Bhavan, Harish Chandra Mathur Lane, Delhi,; The Chief General Manager, Bharat Sanchar Nigam Limited, Gujarat Telecom Circle, Navrangpura, Ahmedabad (Gujarat),; The General Manager (Admn.), O/o CGMT, Gujarat Circle, Bharat Sanchar Nigam Limited, Gujarat Telecom Circle, Navrangpura, Ahmedabad (Gujarat),; The General Manager, Telecom District, Bharat Sanchar Nigam Limited, Kheda Telecom District, Nadiad (Gujarat), and The General Manager, Telecom District, Bharat Sanchar Nigam Limited, Kheda Telecom District, Nadiad (Gujarat), and The District Secretary, which was received along with soft copy of the award by the Central Government on 13.07.2022.

[No. L-42011/211/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present:** RADHA MOHAN CHATURVEDI, Presiding OfficerDated 11th May, 2022**Reference (CGITA) No. - 33/2019**

1. The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhavan, Harish Chandra Mathur Lane,
Janpath, Delhi - 110001
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Gujarat Telecom Circle, 7th Floor, Telephone Bhavan,
C.G. Road, Navrangpura, Ahmedabad (Gujarat) - 380009
3. The General Manager(Admn.),
O/o CGMT, Gujarat Circle, Bharat Sanchar Nigam Limited,
Gujarat Telecom Circle, 3rd Floor, Telephone Bhavan,
C.G. Road, Navrangpura, Ahmedabad (Gujarat) – 380009
4. The General Manager,
Telecom District, Bharat Sanchar Nigam Limited,
Kheda Telecom District, Pij Road, Vallabh Nagar Society,
Nadiad (Gujarat) – 387002

V/s

...First Parties

The District Secretary and Circle President,
Bharat Sanchar Nigam Limited Employees Union,
Kheda Telecom District, Gujarat Circle,
O/o GMTD, Pij Road, Vallabh Nagar,
Nadiad (Gujarat) – 387002

...Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42011/211/2018-IR (DU) dated 22.01.2019 for adjudication to this Tribunal.

SCHEDULE

“Whether the demand of the District Secretary and Circle President, Bharat Sanchar Nigam Limited Employees union, Nadiad for providing Immunity from transfer to Kum. Geetaben T. Chavla, (Assistant District Secretary of Bharat Sanchar Nigam Limited Employees Union) from the management of Chief General Manager, Bharat Sanchar Nigam Limited, Ahmedabad and others is just, fair and legal? If yes, to what relief, Kum. Geetaben T. Chavla, (Assistant District Secretary of Bharat Sanchar Nigam Limited Employees Union) is entitled to?”

1. The reference was received in this Tribunal on 05.02.2019. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. A period of more than 3 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. Advocate for first party Shri H.R. Raval submitted an application on 11.05.2022 for disposal of case mentioning that the applicant Kum. Geetaben T. Chavla had voluntarily retired from service w.e.f. 31.01.2020 afternoon. She had accepted the VRS Order on 04.01.2020. The application is also annexed with copy of VRS Order dated 31.01.2020.
4. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
5. It is therefore just & proper to pass an award considering “no dispute” between the parties.
6. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 22 जुलाई, 2022

का.आ. 691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण— सह — श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 95/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/32/2009. आई. आर. (सी एम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 22nd July, 2022

S.O. 691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2009) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 22.07.2022.

[No. L-22012/32/2009 – IR(CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/95/2009

Present: P.K. Srivastava, H.J.S..(Retd)

Shri Lalmani Sharma,
 S/o Sh. Baikunth Prasad Sharma
 Qtr.No.PB/10, Railway Colony,
 Dhanpuri, Shahdol (M.P.)

... Workman

Versus

The Chief General Manager
 Sohagpur Area of SECL
 PO:Dhanpuri, Shahdol (M.P.)

...Management

AWARD

(Passed on 8-6-2022.)

As per letter dated 11-11-2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/32/2009-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of M/s SECL in terminating the services of Shri Lalmani Sharma w.e.f. 1-8-2005 is legal and justified? To what relief is the claimant entitled for ? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that he was working as a Sr. Overman in Rajendra Coal Mines, Sohagpur Area under the management. He was illegally terminated from service on 1-8-2005 by Management. He was first appointed on 1-1-1970 in Rewa Coal Fields Company Limited. His age 20 years was mentioned in the form-B register maintained by his first employer Rewa Coal Fields Company Limited at the time of his first joining. The Management of Rewa Coal Fields Company Limited, his first employer was nationalized in the year 1973 with the present Management. The present management issued a letter through the Manager of Burhar No.1 Mines where the workman was working on 19-12-1992, to produce Higher secondary school certificate or any other document showing the correctness of his age 20 years as recorded at the time of first appointment in the Form-B register. According to the workman, he produced his High Secondary School failed marksheet in original which was of the year 1967 issued by M.P.Education Board wherein his date of birth was mentioned is 7-8-1949 whereas the management arbitrarily recorded his date of birth as 7-8-1947, ignoring the High Secondary School certificate and marksheet and his date of birth 20 years was recorded in the form-B register maintained by his first employer Rewa Coal Fields Company Limited. When the workman made a representation in this respect, he was issued a charge sheet alleging violation of para 26.9 and 26.13 of the NCWA for producing false and forged higher secondary school certificate and marksheet showing his date of birth as 7-8-1949 instead of 7-8-1947 by way of overwriting/erasing in the marksheet and certificate. The inquiry was conducted in his absence. Rules of natural justice were not followed. He was not given opportunity to defend himself, hence is illegal. The charges were not proved in the inquiry and punishment of dismissal was against law because it was on the basis of an illegal inquiry in which charges were not proved. Accordingly, the workman has prayed that setting aside his termination, he be reinstated in service treating his date of birth as 7-8-1949 and be given all consequential benefits.

3. According to the management, the workman was initially appointed on 1-1-1970 by his first employer and after nationalization in 1973, he became an employee of present management. In his Form-B register and service book his date of birth was mentioned as 7-8-1947 on the basis of the information furnished by him. He appeared in Mines Safety examinations conducted by the Director General Mines Safety and obtained gas tested certificates, overman certificates under the Coal Mines Regulations 1957 wherein his date of birth was recorded as 7-8-1947. At the request of the workman the Management issued a letter on 19-12-1992 in reply to his application dated 10-12-1992 to produce his high school certificate or any other certificate so that his correct date of birth is entered in the Form-B register. He produced his marksheet of Higher Secondary School Certificate 1967 examination wherein there was a tampering in the last digit of the year of his birth, making the year from 1947 to 1949. On doubt a messenger was sent by the Management to the office of Secondary Board Examination with a letter of request issued by the Management seeking genuineness of the certificate and marksheet. The Additional Secretary of the Board sent a letter in sealed cover through the authorized messenger which was opened in front of witnesses. According to the report the date of birth of the workman was found 7-8-1947 in the Examination Board records. It was also found that

in his service book, he had mentioned 11th class pass from M.P.Board in second division which was also false as in fact he had failed in two subjects in the Board examination. The Management decided to initiate a departmental action against him treating it to be violation of para 26.9 and 26.13 of the Standing Orders. The workman was issued a charge sheet on 30-5-2005. He submitted his reply on 10-6-2005. His reply was unsatisfactory, hence the management decided to conduct departmental inquiry vide order dated 30-6-2005. Shri K.S.Arya the then Personnel Manager was appointed as the Inquiry Officer and Shri N.Philip, Superintendent of Rajendra Mines was appointed Management representative. The workman informed the inquiry officer that he had filed a civil suit before Civil Court regarding declaration of his date of birth which is pending and he denied the charges. He did not participate during the inquiry inspite of service of notice to him. The Inquiry officer collected evidence and held him guilty of charge vide the Inquiry Report dated 11-7-2005 submitted by him. The Disciplinary Authority issued a show cause notice on 16-7-2005 with a copy of inquiry report to submit representation if any against the inquiry report. The workman did not submit any satisfactory representation, hence he was dismissed from service vide order of Disciplinary Authority dated 1-8-2005. Civil Suite No.5A/2007 filed by the workman with reference to declaration of his date of birth was also dismissed by the Court of learned Civil Judge, Senior Division. According to the management the inquiry conducted was legal following the rules and procedures. The workman did not participate in the inquiry inspite of full knowledge of the inquiry proceedings. The charges are approved from the inquiry and punishment is also proportion to the charges. Accordingly, the management required that the reference be answered against the workman.

4. ON the basis of the pleading the following preliminary issue was framed by my learned Predecessor:-

“ Whether the inquiry conducted against the workman is proper and legal.?”

5. This issue was decided by my learned Predecessor vide his order dated 17-2-2016 holding the inquiry against law. His this order is part of this Award. Thereafter, the Management was given opportunity to prove the charges before the Tribunal.

6. The management examined its witness Shri P.K.Paul Officer Superintendent. He has been cross-examined by the workman. The Management has filed documents Exhibit M-1 to M-15 as Annexures to the affidavit of Management witness Nitin Philip and has further filed certificate copy of judgment of Court of Civil Judge in Civil suit 21/2005 and Civil suit No.5A/2007. The management has further filed certified copy of decree in the Civil Suit 5A/2007, certificate copy of marksheet of the workman with regard to 1968 examination and volume of documents to be referred to as and when required. The workman has also filed and proved documents to be referred to as and when required.

7. I have heard arguments of learned counsel Shri Rajesh Chandra for workman and Shri Ashok Sharma for management and have perused the record.

8. Following issues arise in the case in hand as it appears from perusal of record in the light of rival arguments:-

- (1) Whether the Management has successfully proved the charges before this Tribunal?
- (2) If yes, whether the termination of services of the workman by management is justified in law?

9. Issue No. 1:

As it has been mentioned earlier the departmental inquiry conducted has been held against law by my learned Predecessor, thereafter the management has been given opportunity to prove the charges before this Tribunal. The Management witness Shri P.K.Paul has stated in his affidavit as his examination in Chief that the workman made a claim stating his date of birth as 7-8-1949 in place of 7-8-1947 mentioned in the official records. He produced a marksheet of Higher Secondary School Certificate in this respect which appeared tampered in the last digit of his year of birth, hence the Management decided to inquire the matter. The management sent a letter to Secretary of Secondary Education Board along with an authorization letter issued by the management through a messenger requesting him to verify the marksheet sent with the letter of the management and send his reply in a sealed cover of the Management through the special messenger sent in this respect. The Additional Secretary send his report after verification of the marksheet in a sealed cover through the special messenger which was opened before the witnesses. According to the report the actual date of birth mentioned in the Board records was 7-8-1947 and not 7-8-1949. The workman had filed a Civil Suit No.5A/2007 before the Civil Judge Class-I, District Shahdol for correction/declaration of his date of birth as 7-8-1949 in place of 7-8-1947 which was dismissed after it was held that the marksheet produced by the workman was not genuine. This witness has been cross-examined by the workman. There is nothing significant in his cross-examination.

10. On the other hand the workman has stated in his affidavit as his Examination in Chief that he has got documents in RTI Act according to which there is an RTI answer issued by the Principal stating that his date of birth is recorded 7-8-1949 in the student register and his name Lalmani Sharma, S/o Baikunthram Sharma resident of Salaiya, Tehsil also recorded in the school register and transfer certificate with same date of birth as 7-8-1949 has been recorded in his High School marksheet of year 1967 having roll no.080471. His age 20 years was recorded in

form-B in the year 1970. This fact also corroborates his date of birth in 1949. There is nothing significant in his cross-examination. The case mainly rests on documentary evidence.

11. According to the management witness in the year 1968 Higher Secondary School Certificate Examination the roll number of the workman was 085241 and his date of birth was recorded as 7-8-1947. His name Lalmani Sharma S/o Baikunthram Sharma was recorded in this certificate. This document has been filed and proved by the management. There is letter of Additional Secretary of the Board filed and proved wherein he has informed that in the certificate of 1964 the roll no. 085241 name of the student was Lalmani Sharma, S/o Baikunthram Tiwari date of birth 7-8-1947 is mentioned in the Board records. The workman has filed RTI documents regarding his Higher Secondary School Certificate Examination 1967 Roll No.080471 mentioning his date of birth as 7-8-1949. In both these certificates the workman has failed. In the Board Examination in 1967 Certificate his name Lalmani Sharma Tripathi S/o Baikunthram is mentioned. It appears that the workman appeared in the board Examination in the year 1967 and 1968 and he failed in both the years. The judgment of the Civil Judge class-I in Civil Suit 5A/2007 reveals that the workman had filed both these certificates of 1967 and 1968 but the certificate of 1967 was not found genuine by the Civil Court because it did not have the signature of the Secretary, whereas the certificate of year 1968 did have the signatures of the Secretary. This is the finding of fact recorded by the Civil Court on the basis of the evidence. This finding and judgment of the Civil Court is final and is binding on parties and will operate as res judicata under Section 11 of the Civil Procedure Code. This finding of the Civil Court supports the case of the Management with respect to charge and discredits the case of the workman in this respect. Hence on the basis of the above discussion, the charge as mentioned above is held proved from the evidence on record.]

Issue No.1 is answered accordingly.

12. Issue No.2:-

The charge is regarding manipulation and tampering of record and preparing forged documents regarding date of birth. This is a severe misconduct.

13 Before proceeding, the settled preposition of law on the issue requires to be mentioned here, which is as follows:-

14 It is admitted proposition of law that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment; however, the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should interfere with the order of punishment when it is disproportionate with respect to the misconduct committed or it is harsh.

1. Hon'ble Apex Court in *B.C. Chayurvedi v. Union of India*, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

“The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof.”

2. In *DG, RPF vs. Sai Babu* (2003) 4 SCC 331, Hon'ble Apex Court has observed that:

Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of a discipline required to be maintained, and the department /establishment which the delinquent person concerned works.”

3. In *United Commercial Bank vs. P.C. Kakkar* (2003) 4 SCC 364 Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the

administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.

To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof.”

4. In Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257 Hon’ble Supreme Court reiterated the legal position as follows:

“..... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved.”

5. In State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580 Hon’ble Supreme Court stated that:

“The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.

6. Hon’ble Apex Court in Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101 has observed that :

“The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

7. Hon’ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

IN the light of the aforementioned settled preposition of law, the punishment awarded cannot be held so shockingly disproportionate to warrant interference by this Tribunal Affirming the sentence, Issue No.2 is answered accordingly.

13. ISSUE NO.3:-

Accordingly on the basis of the findings recorded in Issue No.1 & Issue No.2 the termination of services of the workman by management is held justified in law and the workman is held entitled to no relief. Issue No.3 is answered accordingly.

14. On the basis of the above discussion, following award is passed:-

- A. The action of the management of M/s SECL in terminating the services of Shri Lalmani Sharma w.e.f. 1-8-2005 is held to be legal and justified.
- B. The workman is held entitled to no relief.
- C. Parties to bear their own cost.

15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 22 जुलाई, 2022

का.आ. 692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 22/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/99/2015. आई. आर. (सी एम. 2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 22nd July, 2022

S.O. 692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2016) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of W.C.L. and their workmen, received by the Central Government on 22.07.2022.

[No. L-22012/99/2015 –IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/22/2016

Present: P. K. Srivastava, H.J.S..(Retd)

Md. Naseem Siddique, Zonal mahamantri
Coal Mines Engineering Workers Association
Ward No.10, Gudi Papa Chouri
Chhindwara (MP)

... Workman

Versus

The Manager,
WCL, Mohan Colliery, Kanhan Area
P.O.Ambara, Tehsil Junnardev,
Chhindwara

...Management

AWARD

(Passed on 9-6-22)

As per letter dated 4/2/2016 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/99/2015-IR(CM-II). The dispute under reference relates to:

“Kya Prabhandak Mohan Colliery Western Coal Fields Limited, Kanhan Area, Post Ambada, Tehsil Junnardev, Jilla Chhindwara(M.P.) द्वारा NCWA-11 के प्रवर्धन 10.4.4 व NCWA-111 के प्रवर्धन 9.4.4 के अनुसार दैनिक 31-3-2011 को सेवा नेवर्त हुए पूर्व कामगार श्री Kariya vald Nathu के अश्रित पुत्र Vinay Kumar को रोजगार न देने न्यायसंगत है? यदि नहीं तो कामगार क्या अनृतस्य पाप्ने का अधिकारी है? .”

Another corrigendum was sent by the Ministry(I.R.C-2) vide letter dated 24-2-2016 wherein it has been mentioned that ***“Anshik Sanshodahan karte hue anusuchi के तृतीया पंक्ति में उल्लेखित श्री Kariya vald Nathu के अश्रित पुत्र Vinay Kumar के स्थान पर श्री Ashraf Ali के अश्रित पुत्र श्री Afshan Ali पदथा जयत तथा अन्य भग यथावत रहेंगे.”***

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. According to the workman he was first employed with the Management on 27-6-1973 and superannuated on 1-4-2011 after attaining the age of superannuation. According to the National Coal Wage Agreement -I, II and III para 10.4.4 and 9.4.4 the management was under obligation to offer employment to one dependent of an employee on his superannuation. The Management did not offer any employment to the dependent of the retiring workman Ashraf in spite of his representation before the management. The workman raised a dispute through Union before Assistant

Labour Commissioner Central. The dispute could not be resolved, hence reference was made to this Tribunal for adjudication. The workman has prayed that Management be asked to comply with the provisions of National Coal Wage Agreement No.I, II & III hereinafter referred to as the word 'NCWA' and offer appointment to the dependent of the retired workman Ashraf.

3. The case of the management is mainly that service conditions of the coal mine workers are governed by the National Coal Wage Agreements executed from time to time. There is a Committee JBCCCI responsible for implementation of provisions of the NCWA. Till date as many as Nine National Coal Wage Agreements came in light in force during different period of time. NCWA-I was in force from 1-7-1975 to 31-12-1978. The workman retired on 31-3-2011 and at that time NCWA-IX was in force and operational for the period 1-7-2006 to 30-7-2011. NCWA-IX does not provide for employment to one dependent of workman on his retirement. Hence the Management was justified in not offering appointment to one dependent of the applicant workman on his retirement.

4. The workman did not lead any oral evidence. The Management filed affidavit of its witness Nishant K.Gulkunde, Deputy Personnel Manager. The workman did not prefer to cross-examine the management witness.

5. The workman union did not come forward for argument nor did file any written argument. I have heard arguments of Mr. A.K.Shashi, learned counsel for the Management and have gone through the record.

6. Following issue arises for determination in the case in hand on perusal of record in the light of rival claims:-

“Whether the management is justified in refusing the offer of appointment to dependent of the workman Ashraf on his retirement?”

7. The facts are almost undisputed in the case in hand. It is not disputed that the workman first joined on 27-6-1973 and superannuated on 1-4-2011. The workman has relied on the provisions of NCWA-I and NCA-III wherein there is a provision for offering employment to one dependent of a workman on his retirement. The case of the management is that on the date of retirement of the workman NCWA-IX was in force. NCWA-IX in force within the period from 1-7-2006 to 30-7-2011 as stated by the management is also not disputed by the workman. The relevant provisions regarding offer of appointment to dependent of workman in NCWA-IX (9.3.0, 9.3.2, 9.4.0 and 9.5.0) are being reproduced as follows:-

9.3.0:- Provision of Employment to Dependents:

9.3.2:- Employment to one dependent of the worker who dies while in service. In so far as female dependents are concerned, their employment/payment of monetary compensation would be governed by para 9.5.0.

9.4.0:- Employment to one dependant of worker who is permanently disabled in his place:

- (i) the disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.
- (ii) In case of disablement arising out of general physical disability so certified by the Coal company, the employee concerned will be eligible for the benefits under this clause if he/she is up to the age of 58 years.

The term general physical disability would mean deficiency of a workman due to any disease or other health reasons leading to his/her disablement to perform his/her duties regularly and/or efficiently.

- (iii) The dependent for this purpose means the wife/husband as the case may be unmarried daughter, son and legally adopted son. If no such direct dependent is available for employment, brother, widowed daughter/widowed daughter in law or son in law residing with the employee and almost wholly dependent on the earning of the employee may be considered.

In so far as female dependents are concerned, their employment would be governed by the provisions of clause 9.5.0

- (iv) The dependents to be considered for employment should be physically fit and suitable for employment and aged more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.

9.5.0 :- Employment/Monetary compensation to female dependent:

Provision of employment/monetary compensation to female dependents of workmen who dies while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

- (i) In case of death due to mine accident, the female dependent would have the option to either accept the monetary compensation of Rs.4000/- per month or employment irrespective of her age.
- (ii) In case of death /total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0, if the female dependent is below the age of 45 years she will have the option either to accept the monetary compensation of Rs.3,000/- per month or employment.
In case the female dependent is above 45 years of age she will be entitled only to monetary compensation and not to employment.
- (iii) In case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0 if not employment has been offered and the male dependent of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependent is on live roster, the female dependent will be paid monetary compensation as per rates at paras(i) & (ii) above. This will be effective from 1-1-2000.
- (iv) Monetary compensation wherever applicable would be paid till the female dependent attains the age of 60 years.
- (v) The existing rate of monetary compensation will continue. The matter will be further discussed in the Standardization Committee and finalized.

8. Perusal of these provisions reveals that there is no provision for offering appointment to one dependent of the employee on his superannuation. Since the NCWA-IX was applicable on the date of the superannuation of the worker Ashraf which has no such provision as mentioned above. The department of the superannuating workman does not have any right to employment as a consequence of superannuation of the workman. Accordingly the Management is held justified in law in not offering employment on compensation ground to the dependent of the workman Ashraf on his superannuation. **The Issue is answered accordingly.**

9. In the light of the above discussion and finding, the workman is held entitled to no relief.

10. On the basis of the above discussion, following award is passed:-

- A. The action of the management as mentioned in the reference and its corrigendum is held to just and proper.
- B. The workman is held entitled to no relief.
- C. Parties to bear their own cost.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 9.6.2022

नई दिल्ली, 25 जुलाई, 2022

का.आ. 693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 2, धनबाद के पंचाट (संदर्भ संख्या 142/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.07.2022 को प्राप्त हुआ था।

[सं. एल-20012/334/95 आई.आर. (कोयला-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.142/1996) of the Central Government Industrial Tribunal-cum-Labour Court NO 2, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 22.07.2022.

[No. L-20012/334/95 – IR (Coal-1)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD****PRESENT** : Dr. S. K. Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

REFERENCE NO 142 1996**PARTIES:**

The Secretary,
Dhanbad Colliery Karmchari Sangh ,
Near CMPF Office, Jagjivan Nagar, Dhanbad,
(Jharkhand)

Vs.

The Agent.,
M/s Barakar Engineering & Foundry Works of M/s ECL.,
P.O. Nirsachatti,
Dhanbad (Jharkhand).

Order No. L-20012/334/95-IR (Coal-I) dt. 07.11.1996**APPEARANCES :**

On behalf of the workman/Union : Mr. D. K. Dey. Union Representative.

On behalf of the Management : Mr. D. K. Verma, Ld. Advocate

State : Jharkhand**Industry : Coal****Dated, Dhanbad, the 28th March, 2022,****AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/334/95-IR (Coal-I) dt. 07.11.1996.**

SCHEDULE

Whether the demand by the Union for reinstatement of Md. Mustaque and 10 others (given below) by the Management of M/s Barakar Engineering and Foundry Works of M/s ECL is legal and justified? If so, to what reliefs are the concerned workmen entitled? ”

List of the Workmen

Sl. No.	Name of the Workman	
1	Sri Rash Bihari Sharma	
2	Sri Satrugan Singh	
3	Sri Sadhan Bagti	
4	Sri Krishna Singh	
5	Sri Laljee Shaw	
6	Sri Kala Dhara	
7	Sri Ratan Gorain	
8	Sri Shankar Gorain	
9	Sri Jadu Mahato	
10	Sri Kaladhar Garain	

2 On receipt of the **Order No. L-20012/334/95-IR(Coal-I) dt. 07.11.1996** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, record reveals that this came to be registered on 31.12.1996 with Reference case No. 142 of 1996 with awaiting the parties to file the written statement of claim against their Employer M/s Barakar Engineering and Foundry Works in connection with reinstatement of their services by such employer. In pursuant, the written statement of claim filed and the proceeding of the matter was set in motion.

3. Despite the statement of the claim filed by the workmen and counter claim/written statement filed by the Employer, the matter could not be proceeded towards finalization as the workmen side did not represent the matter from 2006 onwards. Despite several opportunity provided from 2006 onwards and notices for hearing issued to both workmen side as well as Management side, the workmen side failed to either appear or represent during the dates of hearing fixed after 2006 onwards.

4. As the workmen side failed to avail the opportunity provided for hearing the dispute on merit and that the workmen side failed in their appearance or representation of any nature, this Tribunal is constrained treating that the workmen are not serious or interested to pursue the matter of the claim. Therefore, the instant referred Industrial Dispute reached to the stage as if there is no claim to be decided on merit and accordingly "No Relief" is ordered in the Instant reference Case. No. 142/1996.

Let the copy of this Award be sent to the Appropriate Government as required under I.D. Act for publication.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 2, धनबाद के पंचाट (संदर्भ संख्या 193/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.07.2022 को प्राप्त हुआ था।

[सं. एल-20012/150/2001-आई.आर. (सी. एम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.193/2001) of the Central Government Industrial Tribunal-cum-Labour Court No 2, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 22.07.2022.

[No. L-20012/150/2001 – IR (CM-1)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT : Dr. S. K. Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 193 OF 2001

PARTIES:

The Vice President,
Janta Mazdoor Sangh
Vihar Building, Jharia, Dhanbad

Vs.

The General Manager,
Kustore Area of M/s BCCL
PO:Kustore, Distt:Dhanbad

Order No. L-20012/150/2001-IR(C-I) dt. 10.07.2001

On behalf of the workman/Union : Mr. K. N. Singh, Ld. Advocate
On behalf of the Management : Mr. D. K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 26th April, 2022

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/150/2001-IR (C-I) dt. 10.07.2001.

SCHEDULE

“Whether action of the management of M/s B.C.C.L. in not regularizing the workman Sri Krishna Paswan as Store Mate in Clerical Grade- III and, not making payment accordingly is justified, legal and proper? If not, to what relief is the workman entitled and from what date? ”

On receipt of the Order No. L-20012/150/2001-IR(C-I) dated 10.07.2001 of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 193 of 2001 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on 01.04.2002 date fixed and to file their written statements along with the relevant documents. In pursuant thereto of the said order, notices by the Registered Post were sent to the parties concerned.

2. The brief of the facts of the case as per pleading made in the written statement of claim by the Sponsoring Union which reads as hereunder:

- i) That workman concerned Sri Krishna Paswan is a permanent workman designated as Store Mate.
- ii) The workman concerned has been regularized to the post of Store Mate in Cat -IV in the scale of pay Rs. 70.80-2.12.99-98 of 02.12.1998- per day with effect from 01.06.1998 through office order vide dt.24.06.1998. with classification as Clerical Grade III as per NCWA
- iii) The workman concerned has been regularized as Store Mate through an official order and is entitled for regularization and payment of wages under Clerical Gr.-III and in Cat.- IV so long as his wage is concerned.
- iv) The workman concerned has represented several time before the Management for regularizing him in Clerical Grade-III with proper pay and scale but the matter remained unresolved.
- v) Being aggrieved for not paying heed to his demand by the Management the workman approached the Union to take up the issue with Asstt. Labour Commissioner(C),Dhanbad for conciliation but to no effect.
- vi) Before the conciliation proceeding the OP/Management admitted that the workman was regularized through an office order as Store Mate but the proposal of regularization in clerical Grade was not accepted.
- vii) Failure of conciliation to resolve the matter resulted in birth of Reference as Industrial Dispute to this Tribunal referred by the Government of India.
- viii) That the Sponsoring Union raised the present Industrial Dispute and demanded regularization of the workman concerned as a Store Mate in clerical Grade-III on the basis of an office order issued by the Dy. Chief Personnel Manager, Kustore Area for regularization of the workman concerned as a Store mate in Cat.-IV in the scale of pay Rs. 70.00 per day.

3. Thus the Sponsoring Union raised the present Industrial Dispute to the appropriate government for resolution of dispute by making reference under Sec. 10(1)(d) of the I.D.Act.,1947 and demanded regularization of the workman concerned as a Store Mate in clerical Grade III on the basis of an office Order issued by the Dy. Chief Personnel Manager, Kustore Area for regularization of the workman concerned as a Store Mate in category IV in the scale of pay.

4. Whereas the contra plea of the O.P./Management assailing the claim stated in the Written Statement of Claim by the Sponsoring Union which is as follows:

- i) That the workman concerned is a permanent employee of M/s BCCL and working at the Regional Store,Kustore as a General Mazdoor in Category-I
- ii) That there is no any designation as Store –Mate in Job nomenclature of Category-IV employee. The designation “Store Mate” is put under Clerical Grade III.
- iii) That the clerical post is being filed up only through the Departmental Promotion Committee as per the Cadre Scheme by giving equal opportunity to similarly situated employee.

- iv) That the Office Order issued by the Dy. Chief Personnel Manager is not operative as the aforesaid Office Order suffers from irregularities. Moreover, the workman concerned never worked as a Store Mate.
- v) That there is huge number of surplus Clerical Staff in BCCL. The workman concerned is a General Mazdoor and working as per his designation. As per Cadre Scheme of the company there is no scope to promote a General Mazdoor to the post of clerk.
- vi) That as per Cadre Scheme, the Cadre Controlling Authority to promote any workman in a clerical cadre on the recommendation of the Departmental Promotion Committee duly constituted by the Competent Authority subject to vacancy and sanctioned post.
- vii) That the post of clerk is a selection post and only selected candidate can be promoted in clerical cadre.
- viii) That the aforesaid office order issued by the Dy. Chief Personnel Manager is in utter violation of the Cadre Scheme and such office order issued by the Dy. Chief Personnel Manager is non-operative. As such the aforesaid office order was not given any effect.
- ix) So the workman concerned has got no existing right to claim regularization as a Clerk.
- x) In view of the matter, the demand of the Union is neither legal nor justified

5. The workman filed list of documents showing the grounds to justify his claim are as under:

- i) Reference order of the Central Government dated 10.07.2001
- ii) The Office order dt. 05.01.1998 issued under signature of Depot Officer, Kustore Regional Store Kustore area in the name of workman
- iii) Office Order dt. 24.06.1998 for regularization of Sri Krishna Paswan on the post of Store Met
- iv) Joining Report dated 25.06.1998 to the post of Store Met in the light of the office order dt. 24.06.1998
- v) Letter dated 17.12.1999 addressed to the Dy. Chief Personnel Manager, P.B. Regional Store in the name of the concerned workman addressing his regularized designation of "Store Mate"

6. The OP/Management side could not file any document to counter the claim of the workman supported through documentary evidences, except the written statement and argument claiming that the order issued for the workman as 'Store Mate' is not valid and regular as per prescribed provisions and procedure of the organization. Therefore, the narrative of the Management in the pleading that the said promotion order expedited dated 24.06.1998 issued under signature of Dy. Chief Personnel Manager, Kustore Area, of M/s BCCL, Dhanbad regularizing the workman to the post of Store Mate in Cat. IV after initiation through Note Sheet followed by formal approval of the General Manager, Kustore Area on 10.06.1998 which was a bone of contention erupting controversy, would not hold water in the present scenario as OP/Management could not be able to show any action /order or initiative taken to declare the said impugned order null and void.

7. Further the OP/Management kept on entrusting assignments upon the workman taking into aspect of his post regularization as Store Mate which cannot be denied as matter of fact. Whereas Management pleading that the said office order for regularization of the workman to Store Mate is not operative as it suffers from irregularities and with mere such narrative through statements against the workman will not get any support. The OP/management was all along silent even though it was imperative upon authorities to handle such issue without any further delay.

8. Sri K.N.Singh, Ld. Advocate appearing for the workman submitted the copy of Order in other identical case on the similar set of facts having awarded through Reference No. 80/2004 by the CGIT NO.1, Dhanbad pertaining to regularization as Store Mate in Clerical Grade III by the Management of P.B. Area vide letter dated 13.02.2015 of Shri Jethu Mahato. The workman had been regularized in Clerical Grade III by the Management of P.B. Area of M/s BCCL which remained unchallenged even after implementation of the said Award by the Management of M/s BCCL. These two disputes being on the same footing display the same purpose and similar set of circumstances. So this Tribunal cannot have any other view than the view taken by another CGIT in the similar matter and already implemented by the same OP/Management Company.

9. What the facts transpired on record that the workman has been regularized to the post of Store Mate from 01.06.1998 in Cat. -IV on promotion as per Exhibited Documents marking as W-1/1 and subsequently he joined to the promoted post w.e.f 25.06.1998 addressing letter to Dy.CPM, Kustore area of M/s BCCL and even OP/Management made correspondence for fixation of Pay in respect of of workman concerned after regularization so there is no denying fact whatever happened in sequence of events in order. The OP/Management did not deny the fact. Without any speaking order the Higher Authority refused to regularize the workman and pay wages accordingly. The post of Store Mate and Store Issue Clerk both comes under category of Clerical Gr.III and Gr. II respectively. The petitioner proved to establish said promotion order dated 24.06.1998 (Ext.W1/1) of Dy. Chief Personnel Manager, Kusunda Area of M/s BCCL, Dhanbad. The plea further stated that enough material was placed before the Tribunal to

substantiate workman's contention. The workman also accused the OP/management of not being fair to him during the proceeding of the matter.

10. The onus lies on the part of O.P./Management to prove that Management action as a matter of fact is legal and justified in not regularizing the workman as Store Mate and paying the wages applicable to the post of Store Mate even after issuance of order promoting the workman to the post of Store Mate but nothing sort of action appears to have been initiated to declare the order null and void nor has any corrective measure been taken. Insofar as non-payment of wages of Clerical Grade III even though the Management's no objection over subsequent series of official orders just followed after issuing the Office Order for regularizing the workman as Store Mate plays significant role in aid to the workman's claim. The documents tendered by the workman also corroborate such facts from the evidence on record.

11. Having heard the submission of both side and gone through the materials on record, the Tribunal did not find any merit in the ground taken by the OP/Management in assailing the order of the Dy.CPM, Kustore Area on regularization that it suffers from irregularity in itself does not appear plausible in the present set of fact of the matter. The applicant being successful in proving that proper natural justice was denied to him in withholding the wages of Clerical Grade III while regularizing him to the post of the Store mate in Clerical III. Had the OP/Management felt the ground as far reaching effect, it was necessary for them to scrap the alleged order by going into the correctional measures at the earliest, but the Management had failed to do so. The workman has relied upon the order and continue to work in accordance with said order.

12. Hence, considering the facts and circumstances of this case, this Tribunal holds that the demand of Janta Mazdoor Union from the Management of Kustore Area of M/s BCCL, Dhanbad for regularizing Sri Krishna Paswan as Store Mate in Clerical Gr. III is legal and justified. The workman is entitled for payment of wages accordingly to the Grade/Category/Scale of wage applicable to the post of Store Mate on regularization in the said post from the date he formally joined to the post of Store Mate on 25.06.1998.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण— श्रम न्यायालय नंबर 2, धनबाद के पंचाट (संदर्भ संख्या 174/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.07.2022 को प्राप्त हुआ था।

[सं. एल-20012/03/98-आई.आर. (सी.एम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.174/2001) of the Central Government Industrial Tribunal-cum-Labour Court NO 2, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 22.07.2022.

[No. L-20012/03/98 – IR (CM-1)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENTU : Dr. S. K. Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

REFERENCE NO 174 OF 2001.

PARTIES:

Shri Mundrika Bhagat,
Organizing Secretary,
Argada Area, Coalfield Mazdoor Union.
PO: Argada, Distt: Hazaribagh-825301

Vs.

The Material Manager,
Regional Store,
Giddi "A", PO: Giddi, Distt: Hazaribagh-825301

Order No. L-20012/03/98-IR(C-I) dt. 24.05.2001

APPEARANCES :

On behalf of the workman/Union : Mr. M. Bhagat Ld. Rep.

On behalf of the Management : Mr. D. K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 27th August, 2021

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/03/98-IR(C-I) dt.24.05.2001.

SCHEDULE

Whether the demand of the Coal Field Mazdoor Union from the Management of CCL, Gidi "A" for regularization and promotion of Sh.S.M.Anis as Clerk Grade-III is justified and proper? If so, to what relief is the workman concerned entitled and from what date?"

2 On receipt of the **Order No. L-20012/03/98-IR(C-I) dt. 24.05.2001** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 174 of 2001 on 30.06.2001 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuant of the said order, notices by the Registered Post were sent to the parties concerned.

3. The facts and statement as narrated by Sponsoring Union on behalf of the workman in their written statement of claim in precise are as follow:

That the workman concerned was originally appointed as Category I Mazdoor but as per direction of the O.P./Management he was working as Clerk and put in more than 240 days attendance in each calendar year. The O.P./management has implemented the settlement with two ways one Wage Board Recommendation and the other as National Coal Wage Agreement (NCWA).On being approached by the workman Management acceded to workman's request with advice to produce Matriculation or equivalent certificate .Acting on the advice of the OP/Management the workman submitted Hindi Vidyapith Certificate, Deoghar as proof of Matriculation certificate. After detection of some discrepancy in the name of the workman which cannot not be acceptable as per the version of the O.P./Management. Though the OP/management in similarly situated matter workman Junior to him was regularized as Clerk Grade III but not in the case of the workman. This failure of action on the part of the Management led to the Industrial dispute which was referred by the Government of India to this Tribunal for adjudication. The workman termed the action as arbitrary, illegal, discriminatory and vindictive in nature and smacks of anti-labour policy of the management thereby seeking direction to the Management to regularize /promote the workman concerned as Clerk Grade III with retrospective effect with all area of wages and consequential benefits.

4. The Contra plea of the O.P./Management in its written statement narrated that the petition moved by the claimant/workman is not maintainable with elaborating that Clerk Grade –III is a selection post with discretion to employee who have rendered three years of service in the Company and passed the Matriculation .There is no workman in the name of Syed Mohamad Anis at Regional –I Store. However there is an employee at Regional Store in the capacity of Mazdoor Cat.I ,whose name is Sri Anis as disclosed by him in the relevant documents at the time claiming appointment under Para 9.4.3. of NCWA-IV as a sequel to retirement of his father on medical ground. The conciliation after failure on account of technical ground cannot be taken as a ground to interfere with the proceedings that calumniated to the present state of affairs.

5 The Management side also affirmed that the workman concerned appeared before Selection Committee but failed to produce any of paper in support of his education qualification. So the Selection Committee made recommendation of his name subject to production of original Matriculation Certificate before the management but even after so much chasing he proved failure and remains silent .Hence the claim is frivolous and stale. As such there is no merit in the aforesaid Industrial Dispute. So the workman is not entitled for any relief.

6. The workman in course of the adducing evidence filed the list of documents in before the Tribunal with copies thereof which are in some way

- a) WW-I Office Order dt 30.05.1988
- b) W-2 Office order dt. 23.11.1988
- c) W-3 dt. 07.06.2001 about transfer & posting
- d) W-4 dt. 21.08.2000 about distribution of work amongst the employees
- e) W-5 dt. 19.02.1988 authorizing the workman to sign over certain documents
- f) W-6 dt. 27.09.2000 about decantation off Diesel tanker.
- g) W-7 dt. 13.09.2020 endorsement copy of on the issue of unloading and Decantation of Diesel and Petrol
- h) W-8 Prabishka Praman Patra , of Hindi Vidyapith, Deoghar(Bihar) dated 03.01.2006
- i) W-9 Service Excerpt of the Central Coal Field Ltd.,
- j) W-10 Certificate about completion of Computer Application Programme dt.03.01.2006 .

7. During the pendency of the proceeding before this Tribunal even after adducing evidences a number of times and submitting relevant documents in relation to the issue the workman's approach to the O.P./management does not appear to be bonafide as he could not be able to produce of the said certificate with cogent and convincing evidence either before the Departmental Promotion Committee (DPC) or before the Conciliation Officer. However in all the official communications either with the workman or others name of the workman has been referred as " Anish " likewise Exhibited documents Ext.W-1,W-2,W-3W-4,W-5,W-6,W-7 display itself .Notably the certificate produced by the workman of Hindi Vidyapith,Deoghar which has left behind questionable mark whether it be treated as equivalent to any recognized Board of the Government of Bihar and the same will be legally acceptable to any Public Sector Undertaking which bears the name as Syed Mohammad Anis.

8. The workman Sri Anis did not produce his Matriculation Certificate at the time of interview/test before the Committee as per requirement . Under such condition the committee decided to put on hold issuance of Appointment/Promotion Order subject to production of Original Matriculation Certificate along with an attested Photostat copy of the same as per Annexure - E by the workman. It is to be stated that by no stretch of imagination the action of the Sponsoring Union be stated to constitute a sincere attempt to resolve the issue.

9. It is thus proved that since no illegality has been committed by the Management and the decision taken by the Management on demand /grievance of the workman is just and does not call for any interference. In the light of aforesaid discussion, the contention raised by the Union/petitioner is found to be without any merit and consequently the claim does not qualify for any relief. Accordingly no relief is awarded in the instant Ref. No. 174/2001.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधन, गैरीसन इंजीनियर्स (ई/एम), लखनऊ,; मैसर्स उन्नति इंजीनियर्स, उस्मान एन्क्लेव, लखनऊ के प्रबंधन के संबंध में नियोजकों और श्री सुजीत कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 59/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2022 को प्राप्त हुआ था।

[सं. एल-14012/18/2017- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 696.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 59/2019) of the Central Government Industrial Tribunal cum Labour Court— Lucknow, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Garrison Engineers (E/M), Lucknow,; The M/s Unnati Engineers Usman Enclave, Lucknow and Shri Sujeet Kumar, worker, which was received along with soft copy of the award by the Central Government on 18.07.2022.

[No. L- 14012/18/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 59/2019

Ref. No. L-14012/18/2017-IR(DU) dated: 29.10.2018

BETWEEN :

Sh. Sujeet Kumar S/o Sh Devi Shankar
Village – Mehar, Post – Mohanlal Ganj,
Lucknow - 226301

AND

1. The Management
Garrison Engineers (E/M)
Lal Bahadur Shastri Marg, Lucknow – 226002
2. The management
M/s. Unnati Engineers
Usman Enclave, Sector-O, Aliganj, Lucknow – 226024

AWARD

1. By order No. L-14012/18/2017-IR(DU) dated: 29.10.2018 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication
2. The reference under adjudication is:
“WHETHER THE ACTION OF GARRISON ENGINEERS (PRINCIPAL EMPLOYER) & THEIR CONTRACTOR M/S UNNATI ENGINEERS IN TERMINATING THE SERVICES OF SH SUJEET KUMAR, EMPLOYED AS HELPER STATED TO BE SINCE 2006 TILL 08.09.2015, IS FAIR, JUST & LEGAL? IF NOT, TO WHAT RELIEF IS THE WORKMAN ENTITLED TO & TO WHAT EXTENT?”
3. The order of reference was endorsed to Sh. Sujeet Kumar S/o Sh Devi Shankar, Village – Mehar, Post – Mohanlal Ganj, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.
4. The order of reference was registered in the Tribunal on 16.08.2019 and the office was directed to issue registered notice to the workman for filing the statement of claim with list of documents & list of witnesses on 24.10.2019. On the date fixed i.e. 24.10.2019 the workman did not turn up; however, the opposite party No. 01 put up its appearance. Next date 08.01.2020 was fixed for filing of statement of claim. The workman remained absent on 08.01.2020; however, the envelope containing notice to the workman was received back in the office, without any remark thereon; accordingly, fresh notice was issued to the workman fixing 18.03.2022 for filing of statement of claim. The workman remained absent on 18.03.2020 and subsequent date i.e. 17.06.2020; and the envelope containing notice to the workman was received back again in the office, without any remark; accordingly, the service of notice was sufficiently presumed vide order dated 27.11.2020; however, in the interest of justice, another date was given for filing of statement of claim. The workman remained absent on 27.11.2020, 22.01.2021, 26.02.2021, 18.05.2021, 14.07.2021, 30.12.2021, 11.02.2022 and 18.02.2022. The workman neither turned up on any of the aforementioned dates nor moved any application or adjournment seeking time to file the statement of claim. More than two years' time has passed and the workman has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman to prosecute the case.

5. In the above circumstances, it appears that the workman does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

6. Award as above.

LUCKNOW

07th July, 2022

Let two copies of this award be sent to the Ministry for publication.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, अमेठी के प्रबंधतंत्र के संबद्ध नियोजकों और अध्यक्ष, एच.ए.एल., मस्टर रोल माली ट्रेड यूनियन, कोरवा मंडल, अमेठी (यूपी), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 09/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2022 को प्राप्त हुआ था।

[सं. एल-14011/27/2017- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 697.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2018) of the Central Government Industrial Tribunal cum Labour Court— Lucknow, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Hindustan Aeronautics Ltd., Amethi and The President, H.A.L., Muster Roll Mali Trade Union, Korva Division, Amethi (UP), which was received along with soft copy of the award by the Central Government on 18.07.2022.

[No. L- 14011/27/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 09/2018

Ref. No. L-14011/27/2017-IR(DU) dated 21.03.2018

BETWEEN :

President
H.A.L., Muster Roll Mali Trade Union
Korva Division, Village – Korva, Post – Dharmaimafi
Distt. Amethi (UP) – 227405

Vs.

General Manager
Hindustan Aeronautics Ltd.
Post-Korva, Distt. – Amethi – 227405

AWARD

1. By order No. L-14011/27/2017-IR(DU) dated 21.03.2018, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"WHETHER THE DEMAND OF UNION FOR EQUAL PAY FOR EQUAL WORK TO THE CASUAL WORKERS OF HELICOPTER COMPLEX, AMETHI AS PER THE AGREEMENT DATED 01.01.2010 BY THE MANAGEMENT OF HINDUSTAN AERONAUTICS LTD., KORWA IS LEGAL AND JUSTIFIED? IF SO, WHAT RELIEF ARE THEY ENTITLED TO AND WHAT DIRECTIONS ARE NECESSARY IN THE CASE?"

3. The case of the workmen's Union, in brief, is that the members of the workmen's Union are working as casual worker (Mali) for last 35 years and they have been permitted to work throughout the month except on holidays and this practice is being adopted to cause artificial break, though the work is available with the management of HAL, Korva. The workmen's Union has stated that it entered into two different agreements dated 06.03.1989 and 26.07.1995, before the Deputy Labour Commissioner, Faizabad for giving preference in engaging the land losers in the Horticulture Department of the HAL and providing job to other casual workers who have completed 240 days in a calendar year and providing job security to the dependants of employees who got retired on medical ground. It is further stated that the workmen's Union filed WP No. 10513 of 1990 and 10524 of 1990, seeking regularization and other consequential benefits before Hon'ble High Court at Lucknow; both the writ petitions were disposed of with common judgment dated 31.08.1999 with direction to the respondents to absorb the members of the workmen's Union as a regular employees; however said judgment dated 31.08.1999 had been set aside by the Hon'ble Supreme Court vide judgment and order dated 27.04.2007 with direction that 'in case there is any violation of the terms of the settlement on the part of the appellant, the respondents will be entitled to enforce their rights in accordance with law'. The workmen's Union approached the Hon'ble Supreme Court for clarification of judgment and order dated 27.04.2007; whereupon the Hon'ble Supreme Court vide its order dated 12.10.2017 observed that the grounds taken in the application is new cause of action and require to be agitated before appropriate forum; and accordingly, the conciliation proceedings were resorted to before the Regional Labour Commissioner (Central), Lucknow.

4. The workmen's Union has stated that there was a settlement between the employer and the workmen's Union of similarly placed casual workers at Bangalore dated 01.01.2010 for providing wages of semi-skilled casual labourers, un-skilled casual labourers and skilled casual labourers and casual workers by fixing Basic Pay, Special Pay, Dearness Allowance, Ex-gratia, Transport Allowance, Canteen Allowance and Washing Allowance w.e.f. 01.01.2010; accordingly, the workmen's Union in view of above settlement dated 01.01.2010 preferred an application dated 17.03.2017 for grant of same pay scale to the members of the applicant union as made available to the casual workers of HAL, Bangalore. It has been further submitted by the workmen's Union that its members are working as casual worker (Mali) for last 35 years for all working days, except holidays and getting only 10,993/- per month in total; whereas the other similarly situated casual workers/miser all employees of HAL, Bangalore who have same nature of duties, responsibilities, qualification and source of recruitment, are getting Rs. 32000/- per month plus twelve other facilities. It is also stated by the workmen's Union that the employers also entered into a settlement with the Hyderabad HAL casual workers' Union and they are also getting regular pay scale along with other facilities, though no posts are available. The workmen's Union has also submitted that non-payment of salary and other facilities as available to Bangalore and Hyderabad to the members of workmen's Union is violative of Article 14 & 16 of the Constitution as HAL is an undertaking of Central Government under the Ministry of Defence and therefore, keeping in view of long services rendered by the members of applicant's Union, the members of applicant's union are entitled for same salary and other benefits at par with casual workers of HAL, Bangalore and Hyderabad as all units of HAL are same and governed by same set Rules.

5. The management has disputed the claim of the workman by filling its written statement; wherein it has contended that it is complying in totality the settlement dated 06.03.1989, irrespective of the fact that Land losers and non-land losers, all the 47 Horticulture casals are being engaged on all working days. It has also stated that in settlement dated 26.07.1995, it was stated that the dependants of employees having been retired on medical grounds shall be considered sympathetically for appointment against available vacancies as per Rules of the Company and as per company circular dated 15.07.1997 due to dwindling order book/work load position and the surplus manpower a ban was imposed on recruitment since 1987. Further, it was also decided not to continue the provisions of compassionate appointment from the Recruitment & Promotion Rules of the Company, therefore, in view of above, no compassionate appointment on the ground of death cases, medical termination cases and cases of land acquisition can be made in the company/division after imposition of ban. The management of HAL has further stated that the settlement dated 01.01.2010 between the workman represented by HAEL and the management of HAL, Bangalore itself mentions that the settlement is made and binding only on the above mentioned parties. It is very pertinent to note that HAL, Korwa is not party to the settlement hence, the same is not applicable on Avionics Division, Korwa. It

has further been submitted that there is no similarity of circumstances between the casuals working in Bangalore HAL and casuals working in Korwa because Ministry of Labour & Employment has also categorized Area 'A', 'B' & 'C' for the purpose of minimum wages; and Korwa, Amethi comes under the category Area 'C' whereas Bangalore comes with Area 'A', therefore, there cannot be any parity between the casuals working in Bangalore and casuals working in Korwa. Accordingly, the management has prayed that the present claim of the workmen's Union is liable to be rejected out rightly being devoid of any merit.

6. The workman has filed its rejoinder; wherein apart from reiterating the facts already stated in the statement of claim has stated that the workmen's Union is not claiming the minimum wages, but equality in respect of wages/allowances and other facilities made available to the employees of Bangalore and Hyderabad units of Horticulture department. It has also been stated that entire units including unit of Korwa, Bangalore and Hyderabad are under the unit of opposite party no.1.

7. The parties have filed documentary evidence in support of their respective stands. The workman has examined Shri Pandohi Lal, President of the workmen's Union and in rebuttal the management has examined Shri S.K. Pattanaik, Sr. Manger (HR). The parties cross-examined witnesses of each other and availed opportunity to submit oral as well as written submissions in support of their pleadings

8. Heard learned counsel for the parties at length and perused material available on record.

9. The learned counsel for the workman has submitted that the members of the workmen's Union have been working with the opposite party for last 35 years and are getting marginal pay of Rs. 10,993/- per month; whereas contrary to this other similarly situated casual workers at HAL unit of Bangalore and Hyderabad who have same nature of duties, responsibilities, qualification and source of recruitment, are getting Rs. 32000/- per month plus twelve other facilities. The counsel for the Union has vehemently submitted that the HAL at its different units, located at different locations in the country, is a Government of India undertaking and work under control of the Ministry of Defence and there is no discrimination or difference with respect to service conditions of the workmen working in different units, therefore, the conduct of the management of Korwa unit in not grant granting equal pay and allowance and other facilities at par with Bangalore and Hyderabad unit is illegal, arbitrary and amounts to unfair labour practice. The learned counsel for the workman has pointed out that the management witness during its cross-examination has stated that "all twenty one units including HAL, Korwa of HAL are under control of Head Office at Bangalore" he has also stated that "I do not accept that all units of HAL are separate identities". The learned counsel has submitted that since all the units are same with their Head Office at Bangalore, therefore, the workman, working in Horticulture department of HAL, working at different units, are entitled for same wages & allowances and other facilities as admissible to the workmen of the Horticulture department of HAL Bangalore.

10. In rebuttal, the learned counsel for HAL has submitted that the members of the workmen's Union are not entitled for same wages as the workmen of HAL Bangalore since all the units of HAL are different and they are categorized in different category by the Central Government for payment of minimum wages. He has submitted that Bangalore comes in Class 'A' category whereas Korwa falls in Class 'C' category, therefore the claim for same wages and allowances are not admissible; moreover, the members of applicant Union were not a party to the settlement dated 01.01.2010. The learned counsel has further submitted that HAL Korwa is separate entity, having separate registration un UP Factories Act and being separate entity casual or any employee working in one unit cannot claim parity of wages with the employees of other units. He has relied upon:

- (i) *Hon'ble Allahabad High Court in M s Super Cassettes Industries Pvt. Ltd. vs State of U.P. & others [2020 (166) FLR 52].*
- (ii) *Hon'ble Supreme Court in Pottery Mazdoor Panchayat vs The Perfect Pottery Co. Ltd. & others 1979 (38) FLR 38.*
- (iii) *Hon'ble Bombay High Court in Iqbal Ahmad Kamaruddin vs P.L. Majumdar & another 1992 (64) FLR 827.*
- (iv) *Hon'ble Allahabad High Court in R.K. Chaturvedi vs Secretary, BHEL & others 1997 (77) FLR 364.*
- (v) *Hon'ble Jharkhand High Court in Management of Tisco (Tube Division) Jamshedpur vs. Presiding Officer, Labour Court, Patna & others [2013 (136) FLR 928.*

11. I have given my thoughtful consideration to the rival contentions of the parties and scanned entire evidence available on record in light thereto.

12. It has been contended on behalf of the workmen side that management witness, Shri S.K. Pattanaik, Sr. Manger (HR), has failed to clarify the procedure adopted by the Hal management in the matter of maintain parity with regard to the wage structure of the workmen engaged in different units of HAL. It has been vehemently contended that HAL has its Corporate Head Quarter at Bangalore and all the units of HAL should have same wage structure with regard to the wages of the casual employees. The submissions on behalf of the workmen are unacceptable on the following grounds:

- (i) It has been brought to the notice of the Tribunal that different units of HAL are governed by separate Certified Standing Orders.
- (ii) A witness may fail to clarify the point in controversy between the parties; but the Tribunal is supposed to take judicial notice of the notifications issued by the Government in the matter of wage structure of different units, paper No. 11/50 to 11/52.
- (iii) It is matter of common experience that prices of commodities at different places in India vary for several reasons. Same wage structure for all the casual labourers of one business organization functioning under one corporate management is inconceivable and unsustainable in Indian scenario. Though it is painful to note that some workers have worked for thirty five years as casual workers in HAL unit, the same cannot be a legally sustainable ground to direct HAL management to pay wages to the casual workers as paid to workmen of HAL, Hyderabad and HAL, Bangalore unit.

13. In view of the discussions stated above, the claim of the workmen for same wages as given to the casual labourers engaged in Bangalore HAL unit is impermissible in the eye of law.

14. The reference is answered against the workmen's Union. The above award shall not stand as a bar for HAL management to extend additional benefits to the casual workers if their work is found to be adding contribution to the growth of HAL.

15. Award as above.

LUCKNOW

07th July, 2022

Let two copies of this award be sent to the Ministry for publication.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधन, गैरीसन इंजीनियर्स (ई/एम), लखनऊ,; मैसर्स उन्नति इंजीनियर्स, उस्मान एन्क्लेव, लखनऊ के प्रबंधन के संबद्ध नियोजकों और श्री चंद्रशेखर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 52/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2022 को प्राप्त हुआ था।

[सं.एल-14012/24/2017- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 698.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/2019) of the Central Government Industrial Tribunal cum Labour Court— Lucknow, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Garrison Engineers (E/M), Lucknow,; The M/s Unnati Engineers Usman Enclave, Lucknow and Shri Chandrashekhhar, worker, which was received along with soft copy of the award by the Central Government on 18.07.2022.

[No. L- 14012/24/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM- LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 52/2019

Ref. No. L-14012/24/2017-IR(DU) dated: 29.10.2018

BETWEEN :

Sh. Chandrashekhar S/o Sh. Sant Lal
144, Badi Lal Kurti, Lucknow - 226002

AND

1. The Management
Garrison Engineers (E/M)
Lal Bahadur Shashtri Marg, Lucknow – 226002
2. The management
M/s Unnati Engineers
Usman Enclave, Sector-O, Aliganj, Lucknow – 226024

AWARD

1. By order No. L-14012/24/2017-IR(DU) dated: 29.10.2018 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication
 2. The reference under adjudication is:

“WHETHER THE ACTION OF GARRISON ENGINEERS (PRINCIPAL EMPLOYER) & THEIR CONTRACTOR M/S UNNATI ENGINEERS IN TERMINATING THE SERVICES OF SH CHANDRASHEKHAR, EMPLOYED AS HELPER STATED TO BE SINCE 2006 TILL 08.09.2015, IS FAIR, JUST & LEGAL? IF NOT, TO WHAT RELIEF IS THE WORKMAN ENTITLED TO & TO WHAT EXTENT?”
 3. The order of reference was endorsed to Sh. Chandrashekhar S/o Sh. Sant Lal, 144, Badi Lal Kurti, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.
 4. The order of reference was registered in the Tribunal on 16.08.2019 and the office was directed to issue registered notice to the workman for filing the statement of claim with list of documents & list of witnesses on 22.10.2019. On the date fixed i.e. 22.10.2019 none turned up on behalf of the workman; however, the opposite party No. 01 put up its appearance. Next date 08.01.2020 was fixed for filing of statement of claim. The workman remained absent on 08.01.2020. Fresh notice was issued to the workman fixing 18.03.2020 to file statement of claim but workman remained absent on 18.03.2020 and subsequent date i.e. 17.06.2020; and from the track record of the notice sent to the workman, it was evident that the notice issued to the workman had been delivered to him. Accordingly, the service of notice was sufficiently presumed vide order dated 27.11.2020; however, in the interest of justice, another date was given for filing of statement of claim. The workman remained absent on 27.11.2020, 22.01.2021, 26.02.2021, 18.05.2021, 14.07.2021, 30.12.2021, 11.02.2022 and 18.02.2022. The workman neither turned up on any of the aforementioned dates nor moved any application or adjournment seeking time to file the statement of claim. More than two years' time has passed and the workman has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman to prosecute the case.
 5. In the above circumstances, it appears that the workman does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.
 6. Award as above.
- LUCKNOW.
07th July, 2022.

Let two copies of this award be sent to the Ministry for publication.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 25 जुलाई, 2022

का.आ. 699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधन, गैरिसन इंजीनियर्स (ई/एम), लखनऊ,; मैसर्स उन्नति इंजीनियर्स, उस्मान एन्क्लेव, लखनऊ के प्रबंधन के संबंध में नियोजकों और श्री घनश्याम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या 51/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2022 को प्राप्त हुआ था।

[सं. एल-14012/23/2017-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 25th July, 2022

S.O. 699.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/2019) of the Central Government Industrial Tribunal cum Labour Court— Lucknow, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Garrison Engineers (E/M), Lucknow,;The M/s Unnati Engineers Usman Enclave, Lucknow and Shri Ghanshyam, worker, which was received along with soft copy of the award by the Central Government on 18/07/2022.

[No. L-14012/23/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 51/2019

Ref. No. L-14012/23/2017-IR(DU) dated: 03.10.2018

BETWEEN :

Sh. Ghanshyam s/o Naumi Lal
Village – Ahmedpur, Post – Jagrauli
Mohanlal Ganj, Lucknow – 226301

AND

1. The Management
Garrison Engineers (E/M)
Lal Bahadur Shashtri Marg, Lucknow – 226002
2. The Management
M/s. Unnati Engineers
Usman Enclave, Sector-O, Aliganj, Lucknow – 226024

AWARD

1. By order No. L-14012/23/2017-IR(DU) dated: 03.10.2018 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication
2. The reference under adjudication is:

“WHETHER THE ACTION OF GARRISON ENGINEERS (PRINCIPAL EMPLOYER) & THEIR CONTRACTOR M/S UNNATI ENGINEERS IN TERMINATING THE SERVICES OF SH GHANSHYAM, EMPLOYED AS HELPER STATED TO BE SINCE 2006 TILL 08.09.2015, IS FAIR, JUST & LEGAL? IF NOT, TO WHAT RELIEF IS THE WORKMAN ENTITLED TO & TO WHAT EXTENT?”
3. The order of reference was endorsed to Sh. Ghanshyam s/o Naumi Lal, Village – Ahmedpur, Post – Jagrauli, MohanlalGanj, Lucknowwith direction to the party raising the dispute to file the statement of claim along with

relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 16.08.2019 and the office was directed to issue registered notice to the work man for filing the statement of claim with list of documents & list of witnesses on 22.10.2019. On the date fixed i.e. 22.10.2019 none turned up on behalf of the workman; however, the opposite party No. 01 put up its appearance. Next date 08.01.2020 was fixed for filing of statement of claim. The workman remained absent on 08.01.2020. Fresh notice was issued to the workman fixing 18.03.2020 to file statement of claim but workman remained absent on 18.03.2020 and subsequent date i.e. 17.06.2020; and from the track record of the notice sent to the workman, it was evident that the notice issued to the workman had been delivered to him. Accordingly, the service of notice was sufficiently presumed vide order dated 27.11.2020; however, in the interest of justice, another date was given for filing of statement of claim. The workman remained absent on 27.11.2020, 22.01.2021, 26.02.2021, 18.05.2021, 14.07.2021, 30.12.2021, 11.02.2022 and 18.02.2022. The workman neither turned up on any of the aforementioned dates nor moved any application or adjournment seeking time to file the statement of claim. More than two years' time has passed and the workman has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman to prosecute the case.

5. In the above circumstances, it appears that the workman does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

6. Award as above.

LUCKNOW

07th July, 2022

Let two copies of this award be sent to the Ministry for publication.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2022

का.आ. 700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 48/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/19/2016-आईआर (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 26th July, 2022

S.O. 700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2016) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 26.07.2022.

[No. L-22012/19/2016 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/48/2016

Present: P. K. Srivastava, H.J.S..(Retd)

The Secretary,
Janta Mazdoor Sangh,
Sohagpur Area of SECL,
District Shahdol (M.P.)

...Workman

Versus

The Assistant General Director
South Eastern Coal Fields Limited
Bilaspur (C.G.)

...Management

AWARD
(Passed on 12/7/2022)

As per letter dated 10/5/2016 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/19/2016-IR(CM-II). The dispute under reference relates to:

“Mohd. Saaluddin, Sahayak Suraksha, Upnereshak, Sohagpur Shetra SECL ke dwara varsh 1987 se he bar bar avedan patra ke madhyam se anurodh kiye jaane tatha unke shaishanke dastawejon mein janam thithi 9-2-1964 hone ke bawujud Prabhandan dwara Mohd. Salauddin ke janm tithi ko sudhar kar 2-5-1957 ke sthan par 9-2-1964 na kiya jaana kya nyaysangat hai?Yadi Nahi to karmkar Mohd Saluddin kya anutosh paane ka haqdar hai?” .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.
2. The case of the workman as stated in his statement of claim is that he has been working as Assistant Security Sub Inspector in Sohagpur Area of South Eastern Coalfields Limited (hereinafter referred to by the word management). His date of birth is 9-2-1964 but it was wrongly recorded as 2-5-1957 in his service record by the management. The workman has been continuously requesting the management for change of his date of birth in his service records since 16-8-1987. The workman is a matriculate and he had produced his mark sheets and certificates for verification at the time of his appointment and selection process. His representation dated 16-8-1987 was followed by repeated reminders dated 7-11-1987, 3-10-1993, 16-1-2014, 2-5-2014, 3-9-2014, 3-2-2015, 9.2.15 and 16-2-2015 but the Management did not listen to his requests. In the meantime his original documents were lost in the year 2012 in a theft committed in his house. He made a police complaint and got a duplicate matriculation certificate and school leaving certificate as well as mark sheets. According to the workman, he had completed his matriculation from Bihar State Madarsa Board Education which is equivalent to State Education Board. According to the workman he also filed a writ petition No.12021/2014 before Hon. High Court which was disposed by Hon'ble High Court vide order dated 3-9-2014 directing the Management to take immediate action and if the workman felt aggrieved by the said decision, he can approach the Tribunal. According to the workman, the Management is proposing to retire him as per the wrong date of birth mentioned in the Management records which is not sustainable in the eyes of law. Accordingly, the workman has prayed that holding the refusal by the Management correct, his date of birth as 9-2-1964 is unjustified in law. The workman be held entitled to all consequential benefits on the basis of his corrected date of birth.
3. The case of the Management is mainly that the workman was initially appointed as a security guard in Raj Nagar OCM of Hasdeo Area on June-1985. He did not produce any documents in support of his educational qualification and his date of birth at the time of his initial appointment. He sought correction of his date of birth as 9-2-1964 based on his Fauquani Exam Bihar State Madarsa Board Education and Madarsa Leaving Certificate at the end of his service in the year 2014 which is not permissible in law. His date of birth 2-5-1957 was recorded in all the statutory records namely Form-B, Service Register, PF Form and Last Pay Certificates issued from time to time by the Managements on the basis of information and declaration given by him in this respect. He made a representation in the year 2013 which was considered by Managements and was rejected as there was no discrepancy regarding his date of birth in his service record. Accordingly, Management has prayed that the reference be answered against the workman. The workman has examined himself as witness. He has been cross-examined by the Management. He has filed and proved documents. His interview letter issued by Management on 27-8-1984, appointment letter dated 27-5-1985 for post of security guard. His first application raising dispute regarding his date of birth with request to correct it and his photocopy of Bihar State Madarsa Board Education Certificate of Fauquani Education which is equivalent to matriculation is mark sheet regarding this exam. His endorsement regarding disputed date of birth and seeking correction on the copy of his service extracts issued by the Management to him on 3-10-1993 inviting any objections regarding any of the entries. Eight reminders were sent to Management by him regarding correction of his date of birth. Copy of letter issued by Bihar State Madarsa Board Education and sent to management verifying the certificate regarding his High School Education which are Exhibits W1 to Exhibits W3.
4. The Management has examined Sanjeev Singh, Manager Personnel as its witness and has been cross-examined by workman. The management has proved single page photocopy of Form-B regarding first appointment, two other photocopy of form-B in Johilla and Raj Nagar OC. Nine last page certified copy of CMPF declaration form and copies of form PS-3 and PS-4 as Exhibits M1 to M15.
5. I have heard arguments of learned counsel Mr. R.S. Chand for workman and Mr. A.K. Shashi for Management and have gone through the record.
6. **The reference itself is the issue for determination in the case in hand.**

7. The respective claims of the parties have been detailed earlier. In brief the case of the workman is that he did produce all his education documents and certificates mentioning his date of birth as 9-2-1964 at the time of his interview and at the time of his first appointment. Further that he raised dispute regarding his date of birth, first time in the year 1987 and has been consistently agitating against this and also that the action of Management is not correcting his date of birth on the basis of High School Examination Certificates is unjustified in law. Whereas the case of management is that he never produced his high school certificates as claimed by him at the time of his first appointment nor at any time thereafter and his date of birth was recorded in his service records on the basis of declaration to this effect made by him in this respect and also that he raised dispute at the fag end of service i.e. in the year 2013, hence his claim is barred by laches.

8. The workman and the Management witness both have reiterated their case in their statement of oath. The workman has stated in his cross-examination that the minimum education qualification required for security guard was matriculation. The Management does not dispute this preposition. His this statement is further corroborated by the interview letter and appointment letter (Both copies original also in record as Exhibit W1 and Exhibit W2). In para four of the interview letter, he was required to bring with him certificates regarding his education qualification. IN para eight of the appointment letter, he was required by Management to bring with him and produce before the management as many as five documents, one of them as certificate regarding matriculation or its equivalent to prove his exact date of birth. He was required to file one attested copy of these documents and produce the original at the time of joining. As mentioned earlier, the Management did not dispute that the matriculation or equivalent is the qualification for appointment on the post of security guard on which the workman was first appointed. This is also established that the management specifically demanded original and one attested copy of certificate/documents as mentioned in his appointment letter Exhibit W-2. One of them was matriculation or equivalent pass certificate. Inference can be drawn that the workman has fulfilled the minimum education qualification i.e. High School Equivalent pass and only then he was allowed to appear in the selection process and interview and also appointed as security guard. So in these circumstances, the case of the management and the statement of the Management witness that the workman did not produce any documents regarding is minimum qualification which is high school or equivalent at the time of his first appointment or joining had he not produced at the time of joining/first appointment, he would not have been permitted to be appointed for the post of security guard.

9. This is also established from the evidence of Management that the Management did not dispute the genuiness of the matriculation or equivalent certificate claimed and produced by the workman, issued by the Bihar State Madarsa Board Education. There is on record, exhibit W2, letter issued by the Controller of Examination of the Madarsa Board to the Mines Manager i.e. Management certifying the genuiness of the certificates. This letter has been issued in response to letter No.1709 dated 20-9-2014 sent by the Management to the Controller of Examination. This fact also certifies the genuiness of the certificate. Furthermore, the workman has stated his statement on oath that he did make several representation regarding his disputed date of birth recorded by Management in his service record which requires to be corrected. He has filed and proved photocopies of these applications, details mentioned earlier. They are Exhibits W3, W9, W10, W11, W12, W14, W15, W16, W17, W18. Document Exhibit W-8 is a notice issued by management to the workman on 3-10-1993 for providing details of his service records and inviting objections in any of these endorsements. There is an endorsement by workman stating that his date of birth mentioned in his service records is 2-5-1957 which is wrong. He has filed his matriculation certificate and mark sheets and requested to correct his date of birth as 9-2-1964 mentioned in his matriculation certificate. ON this point, the Management witness states that if the workman had filed any representation in this respect, there will be an entry in the dispatch register. The Management has not produced the dispatch register. This fact goes against the claim of the management that the workman raised dispute for the first time only in the year 2013.

10. From the above discussion, the date of birth of the workman is held proved as 9-2-1964 as mentioned in his matriculation certificate. Secondly the claim of the workman that he has been raising dispute in this respect and requesting for correction of his date of birth since 1987 is also **held proved and the case of the Management on this point is held not proved**. The Management further claims that since there was no in-consistency in his date of birth recorded in documents maintained by Management and provision of Implementation Instructions (I.I.No.76) do not apply. Learned Counsel for the workman has assailed this argument of learned counsel for the Management with a submission that when it is established that firstly the qualification for the appointment to the post of security guard was matriculation, naturally the workman would have been appointed by the Management after being satisfied that the workman possessed this minimum qualification. IN this process it cannot be said that the workman had not produced his educational qualification certificate which is matriculation pass certificate, during his selection process i.e. Interview and at the time of joining as is required by Management in the appointment offer Exhibit W-2. This argument of learned counsel for the workman deserves to be accepted, after all it cannot be believed that in the case on workman that the Management appointed him inspite of the fact that he did not possess minimum qualification which is high school or equivalent pass examination. IN this factual scenario, the claim of the management that the workman never produced his documents regarding his date of birth before Management cannot be believed and it is held that the workman did not produce all the documents required by Management to be produced by him as per the offer of appointment Exhibit W-2, Matriculation pass certificate was one of these documents. Consequently it is also held that the action of Management in recording his date of birth as 2-5-1957 in the service records of the workman

was without basis. The Management cannot escape this liability on the ground that it was recorded on the basis of a declaration by the workman since the date of birth mentioned in the first document prepared by management which is Form-B was replicated in various documents prepared thereafter on the basis of this first documents. Certainly there will be consistency in this respect in the documents prepared by Management and mentioned by Management witness in his statement oath Exhibit M1 to M15. Since the date of birth was mentioned without any basis in the first document, it is held that the date of birth replicated in documents thereafter was also wrong.

11. Implementation Instruction No.76 relates to dispute regarding date of birth of employees during employment and at the time of first appointment which is as follows:-

“(B) Review determination of date of birth in respect of existing employees.

(i)(a) In the case of the existing employees Matriculation Certificate or Higher Secondary Certificate issued by the recognized Universities or Board or Middle Pass Certificate issued by the Board of Education and/or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities/Boards/Institutions prior to the date of employment.

(i)(b) Similarly, Mining Sirdarship, Winding Engine or similar other statutory certificates where the Manager had to certify the date of birth will be treated as authentic.

Provided that where both documents mentioned in (1(a) and (i)(b) above are available, the date of birth recorded in (i)(a) will be treated as authentic.

(ii) Wherever there is no variation in records, such cases will not be reopened unless there is a very glaring and apparent wrong entry brought to the notice of the Management. The Management after being satisfied on the merits of the case will take appropriate action for correction through Determination Committee/Medical Board.

(C) Age Determination Committee/Medical Board for the above will be constituted by the Management. IN the case of employees whose date of birth cannot be determined in accordance with the procedure mentioned in (B)(i)(a) or (B)(i)(b) above, the date of birth recorded in the records of the company, namely Form B register, CMPF Records and Identity Cards (untampered) will be treated as final. Provided that where there is a variation, the age recorded in the records mentioned above, the matter will be referred to the Age Determination Committee/Medical Board constituted by the Management for determination of age”.

12. A perusal of these provisions reveals that when there is High School or equivalent certificate with respect to date of birth it will be given precedence. IN the case in hand again in the circumstances mentioned above, particularly when matriculation qualification or the basis of high school or equivalent pass examination the date of birth mentioned in the matriculation certificate which have been given precedence by the Management and the Management was under legal obligation to correct it.

13. Learned counsel for workman has referred to judgment of Hon’ble High Court of M.P. dated 3-3-2020 in W.P.No.16049/2012 (Mannu Kumar Singh Vs. South Eastern Coalfields Limited & Others) which supports the finding and the facts of the case referred are almost identical to the case in hand. The learned Counsel for Management has referred to decision of Hon’ble High Court of Chhattisgarh firstly in W.P.No.6207/2010 (Gorelal Vs. SECL & Others) and secondly in W.P.No.1317/2015 (Subhashis Sinha Vs. SECL & Others) but these cases will not be applicable because of different facts. In the first case referred the workman could not produce any documents mentioned in I.I.No.76 regarding his date of birth. He produced his primary school certificate which is not provided in I.I.No.76 and in the second record the case that the workman deliberately concealed his education qualification because the post was meant for illiterate persons as held by Hon. Court, hence the Management was held justified by Hon’ble High Court in not refusing his age dispute under I.I.N.76.

14. On the basis of above discussion, the reference is answered as follows:-

- A. The action of the management of SECL in not correcting the date of birth of workman to 9-2-1964 from 2-5-1957 is held unjustified in law.**
- B. The workman is held entitled to be deemed to be in continuous service of management till the date of his superannuation on the basis of his date of birth 9-2-1964 and is entitled to all in service and post retiral benefits, accordingly.**

15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 12.7.2022

नई दिल्ली, 26 जुलाई, 2022

का.आ. 701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 28/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/10/2018-आई.आर. (सी.एम.- II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 26th July, 2022

S.O. 701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2018) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of W.C.L. and their workmen, received by the Central Government on 26.07.2022.

[No. L-22012/10/2018 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/28/2018****Present:** P.K.Srivastava, H.J.S..(Retd)

Mahamantri,
Rashtiriya Koyala Khadan Mazdoor Sangh
(INTUC)
Chandamuta, District,
Chhindwara (M.P.)

... Workman

Versus

The Manager
Western Coal Fields Ltd.
Ambara Calree, Kanhan Area
Palachaurai District
Chhindwara (M.P.)

... Management

AWARD**(Passed on 18-7-2022)**

As per letter dated 24/5/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L 22012/10/2018-IR(CM-II).The dispute under reference relates to:

“Kya Prabhandak Vekoli Ambada Colliery, Kanhan shetra, Palachourai Jilla (Chhindwara) M.P. द्वारा Kamgar Shri Narayan Singh, token Incharge ko padounnati Pashchat apne aadesh denank 14/7/2017 द्वारा Sthanantaran ananyantra keya jaana company mein prachalit sthai Adesh ked hara 21.1 ke anusar uchhit hai?Yadi nahi to kamgar kya anutosh paane ka adhikari hai? .”

1. After registering the case on the basis of reference, notices were sent to the parties. The workman never appeared inspite of service of notice. He did not even file statement of claim.
2. The Management has filed its written statement of defence. The case proceeded ex-parte against the workman vide order dated 23-2-2022. The Management filed affidavit of its witness corroborating its case. Heard ex-parte argument of Management learned Counsel Shri A.K.Shashi and perused the record as well.
3. **The reference is the issue for determination in the case in hand.**
4. According to the Management, the workman was working as Senior clerk , Special Grade at Ambara Colliery. He was promoted to the post of Office Superintendent w.e.f. 15-6-2017 and posted at manager Office. Arvind Kumar Sr. Clerk Grade was also given promotion on the same date and he was also posted in the same office. Later on the workman was transferred to another unit in the same area. According, to the management, the transfer was done in the light of exigencies of service and has prayed that the reference be answered against the workman.

5. The initial burden to prove his claim is on the workman. IN absence of any evidence or even statement of claim by workman, he is held to have failed to discharge his burden. ON the other hand, the Management has corroborated its case by the affidavit of its witness. In the light of these circumstances, holding that the workman has failed to prove his claim, the reference deserves to be answered against him and is answered accordingly.

6. On the basis of the above discussion, following award is passed:-

A. The action of the management as mentioned in the reference is held to be just and proper

B. The workman is held entitled to no relief.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 19.7.2022

नई दिल्ली, 26 जुलाई, 2022

का.आ. 702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 76/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/50/2015-आई. आर.(सी. II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 26th July, 2022

S.O. 702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/2015) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of W.C.L. and their workmen, received by the Central Government on 26.07.2022.

[No. L-22012/50/2015 – IR (C-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/76-2015

Present: P. K. Srivastava, H.J.S..(Retd)

The General Secretary
Joint Koyla Mazdoor Sangh (AITUC),
Camp Near Maan Petrol Pump, Parasia,
Chhindwara-480441

Versus

The Deputy Regional Manager
WCL, Tansi Sub Area, Kanhan Area,
PO Rampur Bhatta Via Damua, Reh Junnardev,
Chindwara -480555

...Workman

...Management

AWARD**(Passed on 20-7-22)**

As per letter dated 7/9/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/50/2015-IR(C-II). The dispute under reference relates to:

“Kya upshetriya Prabhandak Khadan , Western Coal Fields Ltd. Kanhan Shetra Junnardev, Jilla Chhindwara dwara Kaamgaar Shri Rajeev Sanmani, Electric Fitter Category-5 ko Vebhagiya Padunnati samite dwara trend test ke aadhar par unse kanisht kamgaar ko padounnit kiya jana uchhit hai? Yadi Nahi to kamgaar kya anutosh paane ks adhikari hai? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of defence/claim.

2. The case of the workman as stated in his statement of claim is that he was first appointed by Management as Category-II worker on 24-11-1995. He was promoted to Category-III on 24-4-2002, to Category—IV from Category-III on 1-1-2003. Category-V from Category-IV on 15-10-2007 and to Category-VI from Category-V on 4-8-2012. His co-workman who was junior to him was also promoted from Category-V to Category-VI and was placed above the workman in seniority in Category-VI which is against law. The workman has prayed for that this anomaly be rectified.

3. The case of the Management is that there is a Cadre Scheme for electrical and mechanical discipline in promotion from one category to other is made on the recommendation of Departmental Promotion Committee Constituted under the Cadre Scheme. The required criteria for promotion to Category-VI from Category-V is three years experience in Category-V and the mode of promotion is Departmental Promotion Committee/Grade Test. The Management has specifically denied that any junior to the applicant/workman was promoted against Rules.

4. The workman has filed and proved Exhibit W1- offer of appoint of the workman on Category-II, Exhibit W-2 order granting promotion to Category-III, Exhibit W-3 Office order Exhibit W-4 granting promotion to Category-V, Exhibit W-5 order granting promotion to Category-VI. The Management has filed copy of recommendation of departmental promotion committee with regard to promotion of the applicant work and his co-workman Komal Thakre from Category-V to Category-VI and copy of Cadre Scheme which are Exhibit M1 and M2 respectively. The workman has examined himself on oath and has been cross-examined. The Management has not examined any witness.

5. I have heard arguments of Union Representative Shri Mahendra Chatterjee and Shri A.K.shashi, learned counsel for the Management and have perused the records.

6. The reference is the issue for determination in the case in hand.

7. The workman has stated in his cross-examination that he and the co-workman Thakre were considered by the Departmental Promotion Committee for promotion to Category-VI from Category-V and both appeared in written and Trade Test. Thakre got more numbers in the test. He also got more numbers in confidential reports also. There was only one vacancy when Thakre was recommended for promotion. Later on the applicant workman was also recommended for promotion when the vacancy came out. The Cadre Scheme shows that the criteria for promotion to Category-VI is firstly three years' experience in Category-V and mode of promotion is Departmental Promotion Committee/Trade Test. The Management has filed the report of Departmental Promotion Committee admitted by the workman side which goes to show that the co-workman Thakre got more marks in test and confidential records annually recorded. In these facts and circumstances, the action of management cannot be held to be arbitrary and is held not against law. Secondly holding the action of the Management justified in law, the reference deserves to be answered against the workman and is answered accordingly.

8. On the basis of the above discussion, following award is passed:-

A. The action of the management as mentioned in the reference is held to be justified in law.

B. The workman is held entitled to no relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 20.7.2022

नई दिल्ली, 26 जुलाई, 2022

का.आ. 703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 101/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/40/2008-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 26th July, 2022

S.O. 703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/2008) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 26.07.2022.

[No. L-22012/40/2008 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/101/2008

Present: P. K. Srivastava, H.J.S..(Retd)

The President,
Koyla Mazdoor Sabha (HMS)
J & K Area, PO Jamuna,
Annuppur (MP).

... Workman

Versus

The Chief General Manager,
Jamuna & Kotma Area of SECL,
PO-Jamuna, Annuppur (MP)

...Management

AWARD

(Passed on 12-7-2022)

As per letter dated 13/8/2008 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/40/2008-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of M/s SECL in not giving SLU in Category VI to Shri Ramdas Rathore is legal and justified? To What relief is the workman concerned entitled? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.
2. The case of the workman as stated in his statement of claim is that he was appointed by Management on 9-1-1979. He was promoted as Tyndal Jamadar Category-V on 12-6-2000 and further he was promoted to the post of Tyndal Jamadar Category-VI on 31-3-2007 on the basis of recommendation of Departmental Promotion Committee constituted by the Management. Before his promotion to Category-V, he was granted SLU(Service Link Upgradation) to Category-IV on 1-7-1994. Shri Vijay Singh who was junior to the workman also held substantive post in Category –V was granted SLU Category-VI who is receiving wages at the rate of Rs.361.68 per day whereas the workman has been paid wages at the rate of Rs.346.67 w.e.f. 1-6-2006 and presently receiving wages @ of Rs.354.20 per day from 1-1-2007. Shri Vijay Singh has not been promoted to substantive post in Category-VI and SLU Category-V was granted to him on 1-1-2003. Similarly, Mewalal another co-workman who also holds substantive post of Category-V w.e.f. from 1-1-2005 and has been granted SLU Category-VI, is receiving wages at the rate of Rs.361.68 per day w.e.f. 1-1-2007. Another co-workman Babulal who also holds substantive post in

Category-V and granted SLU in Category-VI is being paid wages @ Rs.361.68 per day w.e.f. 1-5-2007. These co-workman are junior to the applicant workman but are receiving wages higher than the workman which is arbitrary on the part of the Management. According to the workman, he raised a dispute before the Assistant Labour Commissioner after failure of conciliation, the reference was made by Central Government to this Tribunal. It is the case of the workman that since his juniors are being paid wages more than what he is getting and this discrepancy has not been done away by Management inspite of various representation, the action of Management is arbitrary and illegal and is violative of Article 14 of the Constitution of India. Accordingly the workman has prayed that he be granted the relief of wages w.e.f. 1-7-1994 as has been granted to his juniors with all the arrears and interest and further that his pay be fixed accordingly.

3. The Management has contested the claim with a case that wage contract and other conditions of service including grant of benefits are covered under the recommendations of National Wage Board for the Coal Mining Industries as accepted by the Government of India which is applicable from 15-8-1967 settled by way of Wage Agreement generally known as National Coal Wage Agreement (in short NCWA). This NCWA also deals with the wage structure and promotion policy of the employees in Coal Mining Industries. The Scheme formulated under NCWA is known as cadre Scheme for different cadre. The promotion is given in accordance with the cadre scheme only. The workman was appointed as a general mazdoor in Category-I on 9-1-1979 and was posted in Bhadra Colliery of Jamuna & Kotma Area. He was promoted as a Tyndal Jamadar Category-V on 12-6-2000 at Bhadra Sub Area. The workman submitted an application for granting second SLU on 1-1-2002. The Management informed him vide its communication dated 13-2-2002 that he was not eligible for grant of second SLU because he had not put in required period in service in one scale. The Management has further stated that the co-workman Vijay Singh was earlier posted in Kotma West Colliery and he was transferred to Jamuna OCM from Kotma West Colliery. He was further granted SLU because he had completed 10 years of service in Category-IV, thus SLU of Category -V was granted to him w.e.f. 1-7-1994. He was granted benefit of second SLU Category-VI after completion of eight years of service as per NCWA-VII. Similarly Shri Babulal and other co-workers mentioned by the workman were granted SLU's after completing the required number of years in one category. According to the Management, the workman and other employees mentioned by him were transferred to Jamuna OCM and before their transfer to Jamuna OCM, they were working in different units and got promotion as per sanctioned man power budget with respect of respective units. The employees working in different units are given promotion based on different seniority list maintained at unit level. Further as stated by the Management, the Co-worker Vijay Singh is still not promoted in Tyndal Category-VI and is continuing with second SLU granted while in Category-V w.e.f. 1-1-2003. Thus, according to the Management there is no arbitrariness or illegality on the part of Management or committed by Management in fixing the wages. Accordingly, the Management has requested that the reference be answered against the workman.

4. The workman has filed and proved documents, office order dated 31-3-2007, office order dated 12-6-2000, Service extracts of the workman, office order dated 17-3-2007, copy of Appeal Proforma filed and proved. The workman has also examined himself as witness and has been cross-examined by Management. The workman has further filed documents obtained by him in RTI which are exhibits W-6 to W-9. He has also filed copies of various office communication Exhibits W-10 to W-13. He has filed copies of various NCWA's and Implement Instructions which are Exhibits W-14 to Exhibits W-53. The Management has examined its witness on oath and has proved office order dated 27-8-2002, office order dated 12-6-2000 and office order dated 27-3-2002. I have heard arguments of Shri R.K.Soni, learned counsel for the workman and Shri A.K.Shashi, learned counsel for the Management and have gone through the record as well.

5. The reference is the point for determination in the case in hand.

6. The grant of service linked upgradation in Cadre Scheme has been mentioned in Implementation Instruction No.11 para 2.11.1 as follows:-

2.11.1:- Daily rated and monthly rated employees who have remained in the same category/grade for a period of 10 years or more would be upgraded in the next higher category/grade and such upgradation will take effect from 1st July, 1994 and thereafter on 1-7-1995. Monthly rated employees in T & S Gr.A and Daily rated employees in Excavation Special who have remained in the same grade/category for a period of 10 years or more will be paid an amount equivalent to one increment in lieu of upgradation with effect from 1st July, 1994 and thereafter w.e.f. 1-7-1995.

7. The amended Para 12.3 of Implementation Instruction No.1 is also being reproduced as follows:-

“Upgradation does not mean fixation in the higher grade with an increment as in the case of normal promotion. Upgradation means fixation only in the nearest stage in the higher category/grade and there will be no change of designation after upgradation i.e. the employees upgraded under this clause will carry their won designation and in addition will include SLU i.e.(Service Linked Upgradation) in order to identify such upgraded employees in the company. When such employees get regular promotion, normal incremental benefit will be given and the word SLU will be omitted and they will carry the designation as per normal promotional channel.”

8. Further more Cadre Scheme No.7 for Electrical and Mechanical Employees , Para 3.0 particularly 3.2 and 3.3 are also being reproduced as follows:-

“3.2:- Selection for the posts upto Category-V shall be on the basis of seniority-cum-merit and from Category-V to VI on the basis of merit-cum-seniority. Selection to Supervisory Gr.C shall be on the basis on selection on merit from employees in Category-VI. Similar promotion from Gr-C to B and Fro Gr.B to A shall be on the basis of Skill/Merit-cum-seniority.”

“3.3:-the promotional zone for filling the vacancy in Category-I To Category-VI will be Unit/Project as regards Technical and Supervisory Grade-C to A, promotional zone would be area, unless otherwise specifically provided in the Scheme itself.”

9. Perusal of these rules, makes it clear that promotional zone for vacancy in Category-1 to Category-VI would be unit/project wise and thereafter it will be area or zone wise. It is not disputed that before promotion, the applicant workman and the co-workman were working in different units. The applicant workman was working at Bhadra Colliery whereas the Co-workman Vijay Singh was working at Kotma West Colliery and after promotion in different units on the basis of vacancy they were transferred at one place which is Jamuna OCM. Since promotional zone for the posts which they were promoted was unit/project wise and they were promoted while they were in different projects at different point of time , they were granted SLU also in different projects at different point of time subject to availability in those projects. The applicant workman cannot claim parity regarding previous promotions and benefits done before as he and his co-workers were transferred to third project i.e. Jamuna OCM. The workman has filed documents relating to correction of anomalies of one clerk Ramchandra Singh viz a viz his co-worker K.K.Prasad, but these documents do not show that Ramchandra Singh and Co-worker K.K.Prasad were working in different projects at the time of his transfer.

10. On the basis of the above discussion, following award is passed:-

A. The action of the management of M/s SECL in not giving SLU in Category VI to Shri Ramdas Rathore is held to be legal and justified

B. The workman is held entitled to no relief.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 12.7.2022

नई दिल्ली, 26 जुलाई, 2022

का.आ. 704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 86/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2022 को प्राप्त हुआ था।

[सं. एल-22012/63/2014 आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 26th July, 2022

S.O. 704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 86/2014) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of W.C.L. and their workmen, received by the Central Government on 26.07.2022.

[No. L-22012/63/2014 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPURNO. CGIT/LC/R/86/2014**Present:** P.K. Srivastava, H.J.S..(Retd)

The General Secretary,
Joint Koyla Mazdoor Sangh (AITUC)
Near Maan Petrol,
Parasia Chhindwarha (M.P.)

... Workman

Versus

The Depot Manager,
C.M.Store, WCL, Pench Area
Tehsil Parasia,
Chhindwarha (M.P.)

... Management

AWARD

(Passed on 13-7-22)

As per letter dated 7/11/2014 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/63/2014-IR(CM-II). The dispute under reference relates to:

“Kya Mahaprabhandak, Western Coal Fields Limited, Pench Area parasia , District Chhindwarha Shri Yunus Khan, Cleaner, Conductor C.M.Store, Pench Shetra, Western Coal Fields Limited Parasiya Tehsil Parasia, District Chhindwarha ko Year 2005 ka Labh Dete Hue Category-4 mein padounnati dekar varsh 2013 mein aadesh kramank –Vakoli/pench/pe.re.SLP/B.H/366/13. Dated 20-3-2013 dwara SLP ka labh pradah karte hue Category-3 prastavet Padavanti karna nyaysangat hai?Yadi Nahi to karmkar kya anutosh paane ka adhikari hai? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.
2. The case of the workman as stated in his statement of claim is that he was transferred from Sethia O/C Mines to Chandamatta CME Store vide order of Management dated 4-6-1985 as General Mazdoor. He was promoted to General Mazdoor Category-II as Cleaner General Mazdoor in the year 1986. He was authorized by Depo Officer to work as Crane Helper in the year 2002. He was promoted to General Mazdoor Category-IV from Category-III SLU vide order of Management dated 21-2-2005 w.e.f. 1-1-2005. He was further reverted to General Mazdoor Category-III by Depo Officer CME Store Chandamatta vide his order dated 20-3-2013 which is arbitrary and against norms. The workman has therefore prayed that, holding the action of Management against law, his promotion be reinstated to Category-IV as mentioned above.
3. According to the Management, the workman was initially appointed as General Mazdoor. He was transferred from Sethia OC Mines to Chandamatta vide order of Management dated 6-6-1985. Thereafter he was promoted to Cleaner Category-II and was posted at CM Store Chandamatta. He was authorized to help as Crane Helper in the year 2002 which is equivalent to Cleaner Category-II and carries the same pay scale. He was given benefit of SLU Category –III in the year 1997 and was further given SLU Category-IV in the year 2005 after completing eight years in SLU Category-III. As per Service Link Promotion Scheme. He was further given SLP after completion of eight years w.e.f 1-1-2013. According to the Management, he was never promoted before March-2013 from Category-II to Category-III rather he was given service linked up gradation/service linked pay in different categories as mentioned above after being in continuous service in one category for number of years as required for SLU/SLP. Hence as claimed by Management there is no illegality in the action of Management and the reference needs to be answered against the workman.
4. The workman has examined himself on oath and has been cross-examined. The workman has further filed office order dated 461985, office order dated 31-12-1986, Office order dated 21-2-2005 and office order dated 20-3-2013 all issued by management and marked W1 to W4 respectively.
5. The Management has examined Shri K.S.Katti Mani , Depo Officer as witness. He has been cross-examined by the workman.
6. I have heard arguments of Shri Mahendra Chatterjee, Union Representative and Shri A.K.Shashi, learned counsel for the management. I have also gone through the record.
7. **The reference is the issue for determination in the case in hand.**

8. Both the side witnesses have reiterated their claims in their statement on oath. The Management has referred to Circular No.329 dated 1-12-2011 issued by JBCCI with regard to I.I.No.24 which is as follows:-

APPLICABILITY:- Under this scheme, on promotional increment @3% of the existing basic in the grade/category will be allowed to the employees who remain in the same category/grade for a period of 7/8 years(Underground/Surface non-executive employees respectively) and will be promoted in the next higher category/grade. However, such employee will continue to do their existing jobs as per their designation."

9. The Management has further referred to another circular No.604 dated 19-6-2013 issued by the JBCCI with respect of I.I.No.24 of NCWA-VIII. The relevant portion is being reproduced as follows:-

- (a) **The designation of the employee shall not be changed, only those who have been extended SLP, their existing designation would be by putting right side word SLP of the existing designation. For example, if any employee has designation of Sr. Clerk, his/her designation would be Sr.Clerk(SLP) after extending SLP.**
- (b) **Such employee who has been extended SLP, he/she will also get annual increment in the same year, i.e. if an employee got benefit of SLP on 1-1-2007 and his/her annual increment falls due to 1st February,2008, the same should be extended to him/her.**

10. It is established from these circulars that after getting benefit of SLU/SLP, the designation of the employee will not be changed. His existing designation would be mentioned by putting on the right side of the word SLP/SLU. The workman has himself admitted in his statement that he was promoted to Category-II in the year 1986. He states that he was promoted to Category-IV Cleaner. The Union Representative has referred to Exhibit W-3 and office order dated 21-2-2005 in this respect. I have perused these documents. The name of the workman finds place at serial no.16. It is mentioned that he is being granted SLU Category-IV from SLU Category-III. Change of SLU/SLP is not promotional with regard to post, in the light of circular mentioned above. Hence the workman would still be in the category-II inspite of the fact that he got SLU/SLP for Category-III and Category-IV. In the back drop of these facts, the promotion order of the workman which he has questioned and which is Exhibit W-4 bringing the workman from Category-II to Category-III cannot be said to be a demotion order from Category-IV to Category-III. In the light of the above discussion, the action of the management cannot be held unjustified in law and the workman is held entitled to no relief.

11. On the basis of the above discussion, following award is passed:-

- A. The action of the management as mentioned in the reference is held to be justified.**
- B. The workman is held entitled to no relief.**

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 13.7.2022